## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION DOCKET NO. 5:18-cv-00055-MOC

JOE HENRY THOMAS; SYLVIA MALLARD THOMAS,	)	
Appellants,	)	
Vs.	) ORD	ER OF DISMISSAL
STEVEN G. TATE,	)	
Appellee.	)	

THIS MATTER is before the Court on review of the docket for compliance with this Court's second Roseboro Order (#5), which was entered in response to the second Memorandum to the District Court from the Clerk of the Bankruptcy Court (#6) filed in accordance with Rule 8001(a), Federal Rules of Bankruptcy Procedure. Fed.R.Bankr.P. 8001(a). In that memorandum, the Bankruptcy Clerk advised that the *pro se* Appellants failed to comply with Rule 8009(b) in that they had not filed the Designation of Items to be included in the "Record on Appeal" and had not filed a Statement of Issues for this Court to consider in determining their appeal. Fed.R.Bankr.P. 8009(b).

Pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir.1975), Appellants were advised in the Roseboro Order that they would need to file both a Designation of Items to be include in the Record on Appeal and a Statement of Issues by May 25, 2018. Further, they were advised that "failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the district court ... to act as it considers appropriate, including dismissing the appeal." Fed.R.Bankr.P. 8003(a)(2).

Review of the pleadings in both this action and in the bankruptcy court docket (BK 17-50095) reveals that the May 25, 2018, deadline has not been met and that no filing, compliant or otherwise, has been made even within the more than 30 days that have elapsed since such deadline ran. While the Appellants have filed an Objection (#10) to the Trustee's withdraw of a brief, that Objection is overruled as the Trustee properly withdrew such pleading. Nothing in the Objection is, however, responsive to this Court's second <u>Roseboro</u> Order.

It appearing to this Court that Appellants have failed to comply with the Federal Rules of Bankruptcy Procedure in perfecting an appeal and have failed to meet the extended deadline set by this Court or otherwise seek any relief from that Order, the Court determines that dismissal of the appeal is the appropriate course of action under Fed.R.Bankr.P. 8003(a)(2) as Appellants have failed to perfect their appeal even after this Court instructed them on how to accomplish the task and gave them additional time. Thus, dismissal of the appeal is appropriate.

## **ORDER**

IT IS, THEREFORE, ORDERED that this appeal is DISMISSED.

Signed: July 10, 2018

Max O. Cogburn J

United States District Judge